HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 15728 of 2006

Dated 8th October, 2007

Between

Smt. A.Balamani and ors

…..Petitioners

and

Andhra Pradesh Housing Board,
Nampally, Hyderabad, rep. by its
Vice Chairman & Housing Commissioner.

…Respondent.

HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 15728 of 2006

ORDER:

This Writ Petition is filed seeking Writ of Mandamus to direct the respondent herein to consider the representation of the petitioners dated 27-4-2006 in accordance with G.O.Rt.No. 206, Housing (BH.II-1) Department, dated 27-8-2001 for the purpose of sale of the land admeasuring 965 square yards, situate at Ameerpet, Hyderabad.

The respondent-Housing Board, a statutory body constituted under the A.P. Housing Board Act, 1956, constructed the houses way back in the year 1954-55 at Ameerpet, Hyderabad. The petitioners are the allottees and purchasers of the house bearing Nos. 6/3 RT to 11/3RT situate at Ameerpet Colony, Ameerpet, Hyderabad. As stated in the affidavit filed in support of the Writ Petition, it is the case of the petitioners that there is vacant land admeasuring 965 square yards on the rear side of their houses, and, as the said land is kept idle and not

having clear accessibility, they have applied for sale of the said land to them by fixing the price. When the said piece of land was notified for auction, the petitioners, at different times, approached this Court in Writ Petition Nos. 11503 of 1992, and, 15477 of 2003 and this Court by order dated 25-11-1992 in Writ Petition No. 11503 of 1992, directed the respondent-Board to consider the representation dated 21-11-1992 filed by the petitioners. As much as there was prohibition for sale of the land admeasuring more than 100 square yards, otherwise than by way of public auction, when the respondent-Board sought permission from the Government for sale of the said land to the petitioners, the Government by G.O.Rt.No. 206, Dated 27-8-2001, permitted the respondent-Board to sell the said land to the petitioners at the rate of Rs.5000/- per square yard. However, the petitioners have paid only 20% of the sale consideration and failed to pay the remaining balance amount and as such, the amount paid by the petitioners was refunded to them by letter dated 19-4-2006, in view of the orders of this Court in Writ petition No. 26653 of 2001, wherein this Court directed the Housing Board to sell land, belonging to it, measuring more than 100 square yards, by way of public auction. It is stated in the affidavit that after the amounts deposited by the petitioners were refunded to them, further representation was filed by the petitioners on 27-4-2006 to take back the said amount and also permit them to pay the balance amount and sell the said land in their favour. It is stated by the petitioners that in spite of the said representation, no action is being taken by the respondent-Board, and, as such, they filed this Writ Petition.

Counter affidavit is filed on behalf of the respondent. While generally denying the several allegations of the petitioners, it is stated that, the open land which is at the rear side of the petitioners' houses is not 965 square yards, but, in fact, on actual measurement, it is about 1214 square yards. It is stated that the Respondent-Board in the letter

dated 6-9-2001 directed the petitioners to pay the cost of the land within a month and made it clear that the offer would stand cancelled if the said payment is not made. It is further stated that the petitioners have made only part payment, i.e. 10% of the sale consideration and submitted representation for extension of time. Though the said representation of the petitioners was considered favourably, but, the petitioners did not pay the balance amount even within the extended period of two months' also. It is stated that some third parties also filed Writ Petition No. 19865 of 2001, but after disposal of the said Writ Petition, no representations were filed as alleged by the petitioners. It is stated that the letter dated 19-4-2006 communicated to the petitioners was in terms of the general policy of the Board, not to effect sale of any land admeasuring more than 100 square yards, other than by way of public auction. It is stated that the said policy is in accordance with the provisions of the A.P. Housing Board Act, 1956 and the Rules made thereunder. It is further stated that adjoining the said piece of land, there are not only the petitioners' houses, but, there are several other houses including some private owners' houses.

Heard Sri V.Tulasi Reddy, learned Counsel appearing for the petitioners and Sri D.Ranganath Kumar, learned Standing Counsel appearing for the respondent-Housing Board.

It is submitted by the learned Counsel appearing for the petitioners that there is no accessibility at all to the said piece of land and in view of the same, it was decided to sell the same in favour of the petitioners in relaxation of the orders issued in G.O.Ms.No. 38, Housing, dated 30-5-1997. It is further submitted that in view of the pendency of the Writ Petition filed by some third parties, the petitioners could not pay the entire sale consideration amount, and as much as, they have deposited part of the sale consideration, the respondent-Board ought to have considered the representation of the petitioners

for sale of the land in favour of the petitioners by accepting the balance sale consideration amount, in view of the orders passed by the Government in G.O.Rt.No. 206, dated 27-8-2001.

On the other hand, it is submitted by the learned Standing Counsel appearing for the respondent that as much as the said land is to the extent of 1214 square yards, as per the policy of the respondent-Board, it can be disposed of only by way of public auction, but not otherwise. It is further submitted that though, on earlier occasion, the Government permitted the respondent-Board for sale of the land in favour of the petitioners at the rate of Rs.5000/- per square yard, but however, the petitioners failed to pay the said amount at the rate as fixed by the Government within the period specified in the communication sent by the Board and extended later. It is submitted that the petitioners have no right to seek direction for sale of the land to them only.

With reference to the submissions made by the learned Counsel for the petitioners, in this case, it is to be seen, that according to the petitioners, the said piece of land, which is adjoining the houses of the petitioners, is about 965 square yards, but, however, in the counter affidavit, it is stated that, the said land admeasures 1214 square yards. Though, on earlier occasion, when the respondent-Board sought permission for sale of the said land, the Government issued orders in G.O.Rt.No. 206, dated 27-8-2001 permitting the respondent-Board to sell the land in favour of the petitioners at the rate of Rs.5000/- per square yard, but, however, the petitioners did not pay the said amount at the rate as fixed by the Government pursuant to the communication sent by the respondent-Board. Though the petitioners have paid part sale consideration, but they did not pay the balance amount even in the extended period of time, during the year 2001. It is stated in the counter affidavit that the amount paid by the petitioners was refunded

to them. Even as per Rule 29 of the A.P. Housing Board Rules, 1959, framed under the A.P. Housing Board Act 1956, disposal of the property of the Board, by sale or lease, shall be by public auction. In that view of the matter, and, as the petitioners themselves failed to pay the amount fixed in G.O.Rt.No.206, dated 27.8.2001, no direction can be given for sale of the said land. In that view of the matter, I do not find any valid ground for grant of relief as prayed for.

The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 08-10-2007.
Msnr.